

REMARKS

Claims 1-14 are pending in the application.

Claims 1-9 are allowed.

Claims 10-14 are rejected.

Claims 10-12 are rejected under 35 U.S.C. 102(b) as being anticipated by Abernathey et al. (US Pat. 4,755,478).

Claims 13 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Abernathey et al. (US Pat. 4,755,478) in view of the admitted prior art (Fig. 1-2c).

Claims 10 and 13 are amended.

Claims 11-12 are cancelled.

No new matter is added.

Claims 1-10 and 13-14 remain in the case for consideration.

Applicant requests reconsideration and allowance of the claims in light of the above amendment and following remarks.

Claims Rejections – 35 USC § 102

Claims 10-12 are rejected under 35 U.S.C. 102(b) as being anticipated by Abernathey et al. (US Pat. 4,755,478) (“Abernathy”). Applicant respectfully traverses the rejections.

Independent claim 10 is amended to incorporate dependent claims 11 and 12, specifically adding to claim 10 “forming a blanket etching stop layer over the gate stack and the semiconductor substrate” before “forming an insulating layer over the gate stack *including the gate spacer.*” With respect to claim 12 (now cancelled and incorporated into amended claim 10), the Examiner cites column 5, lines 15-25, of Abernathy as teaching forming an oxide layer before forming an interlayer insulating layer. However, Abernathy at column 5, lines 15-25, discloses depositing an oxide layer as part of a preferred method of forming sidewall spacers 60. In amended claim 10 of the present application, the sidewall spacers are already formed before forming a blanket etching stop layer. Thus, Abernathy fails to teach each and every element of the method claimed in amended independent claim 10. Therefore, claim 10 as amended is believed to be allowable over Abernathy, and the applicant respectfully requests allowance of this claim.

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Claims Rejections – 35 USC § 103

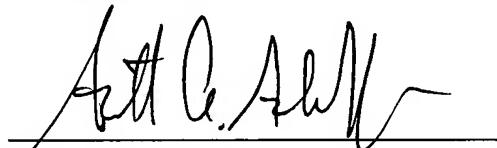
Claims 13 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Abernathey et al. (US Pat. 4,755,478) in view of the admitted prior art (Fig. 1-2c). The applicant respectfully traverses the rejections.

As discussed above, Abernathy does not disclose each and every element of the method claimed in amended independent claim 10. Claim 13, as amended, depends from claim 10 and claim 14 depends from claim 13. Thus, the combination of Abernathy and the admitted prior art does not disclose each and every element of claims 13 and 14. Therefore, these claims are believed to be allowable over the combination of Abernathy and the admitted prior art and the applicant respectfully requests their allowance.

For the foregoing reasons, reconsideration and allowance of claims 1-10 and 13-14 of the application as amended is solicited. The Examiner is encouraged to telephone the undersigned at (503) 222-3613 if it appears that an interview would be helpful in advancing the case.

Respectfully submitted,

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